

March 30 2010

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CLERK OF THE SUPREME COURT  
STATE OF MONTANA

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ATTORNEYS FOR DEFENDANT/  
APPELLANT

ATTORNEYS FOR PLAINTIFFS/  
APPELLEES

IN THE SUPREME COURT OF THE  
STATE OF MONTANA

FILED

MAR 30 2010

DEBBIE PATCH, as Personal  
Representative of the Estate of  
BRANDON PATCH, Deceased, and  
Debbie and Duane Patch,

Plaintiffs/Appellees,

vs.

HILLERICH & BRADSBY CO., d/b/a  
LOUISVILLE SLUGGER,

Defendant/Appellant.

*Ed Smith*  
CLERK OF THE SUPREME COURT  
STATE OF MONTANA  
Supreme Court Cause No. 10-0051

**STIPULATION FOR EXTENSION  
OF TIME FOR MODIFICATION OF  
THE RECORD**

Pursuant to Rules 8(6) and 9(4), Mont. R. App. P., the parties hereby stipulate to modification of the record on appeal and an extension of time to allow that modification to occur. The parties further stipulate and agree that the record on appeal will be modified by its supplementation with transcripts of two oral arguments (held on February 13, 2008 and January 4, 2010) not included in the record transmitted to this Court, which Appellees have decided are material to them. As stated in the accompanying affidavit of Court Reporter Vickie Pratt, those two oral arguments have


not yet been transcribed, and because of her current busy schedule with the district court, it will take her up to an additional 50 days to prepare the transcripts and file them with the Court.

Accordingly, the parties ask this Court to grant an extension of time of up to 50 days from the date of this Stipulation for the record to be modified by filing of the two transcripts by Ms. Pratt with this Court, and for Appellant's opening brief to be due, per Rule 13(1), Mont. R. App. P., within 30 days after the date on which the modified record is filed.

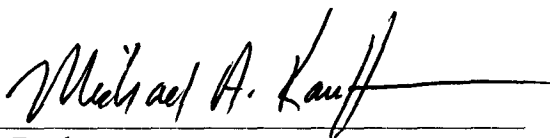
Because the modification of the record will change the due date of its brief, Appellant hereby withdraws its earlier filed Rule 26(1) motion for extension of time to file its opening brief, and Appellees do not object.

For the Court's convenience, a proposed order is included herewith.

DATED this 26<sup>th</sup> day of March, 2010.

  
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Attorneys for Plaintiffs/Appellees

**CERTIFICATE OF SERVICE**

I hereby certify that I have filed a true and accurate copy of the foregoing Stipulation for Extension of Time for Modification of the Record with the Clerk of the Montana Supreme Court; and that I have served true and accurate copies of the foregoing by United States Mail, as follows:

Vickie L. Pratt,  
Court Reporter  
District Court, 1st Judicial Dist., Lewis & Clark County  
228 Broadway  
Helena, MT 59601

Joe E. White, Jr.  
White & Weddle, P.C.  
5532 North Western  
Oklahoma City, OK 73118

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P.O. Box 639  
Billings, MT 59103-0639

Dated this 30<sup>th</sup> day of March, 2009.



\_\_\_\_\_  
Michael A. Kauffman

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cc: Honorable Kathy Seeley

## IN THE SUPREME COURT OF THE STATE OF MONTANA

Supreme Court Cause No. DA-10-0051

DEBBIE PATCH, as Personal  
 Representative of the Estate of  
 BRANDON PATCH, Deceased, and  
 Debbie and Duane Patch,

Plaintiffs/Appellees,

vs.

HILLERICH & BRADSBY CO., d/b/a  
 LOUISVILLE SLUGGER,

Defendant/Appellant.

**AFFIDAVIT OF COURT  
 REPORTER, VICKIE L. PRATT,  
 REGARDING STIPULATION FOR  
 EXTENSION OF TIME FOR  
 MODIFICATION OF THE RECORD**

**FILED**

MAR 30 2010

STATE OF MONTANA )  
 ) ss.  
 COUNTY OF LEWIS & CLARK )

*Ed Smith*  
 CLERK OF THE SUPREME COURT  
 STATE OF MONTANA

Vickie L. Pratt, being first duly sworn, deposes and states as follows:

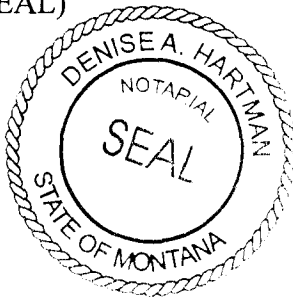
1. I am the district court's court reporter in the above-entitled matter.
2. Neither party requested that I transcribe the oral arguments held on February 13, 2008 and January 4, 2010, for inclusion in the record on appeal, which was earlier transmitted to the Court.
3. After transmittal of the record, it is my understanding that the Plaintiffs/Appellees decided that the inclusion of those transcripts in the record was material to them, and that the parties then stipulated to modify the record on appeal to include those oral argument transcripts.

4. Because of my current busy schedule with the district court covering hearings and trials, it will take me up to 50 days from the date of the parties' March 29, 2010 stipulation to prepare and file those extra transcripts with this Court, which I will do on or before May 17, 2010.

Vickie L Pratt  
Vickie L. Pratt

Subscribed and sworn to before me this 29 day of March, 2010 by  
Vickie L. Pratt.

(SEAL)



Denise Hartman  
DENISE HARTMAN  
[Type or Print Name]

Notary Public for the State of Montana

Residing at Helena

My Commission expires 1/4/2012